

JAN 24 2019

S.B. NO. 1498

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# A BILL FOR AN ACT

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RELATING TO THE HAWAII LABOR RELATIONS BOARD.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Section 89-5, Hawaii Revised Statutes, is  
2 amended by amending subsection (i) to read as follows:

3       "(i) In addition to the powers and functions provided in  
4 other sections of this chapter, the board shall:

5       (1) Establish procedures for, investigate, and resolve[7]  
6 any dispute concerning the designation of an  
7 appropriate bargaining unit and the application of  
8 section 89-6 to specific employees and positions;

9       (2) Establish procedures for, resolve disputes with  
10 respect to, and supervise the conduct of[7] elections  
11 for the determination of employee representation;

12       (3) Resolve controversies under this chapter;

13       (4) Conduct proceedings on complaints of prohibited  
14 practices by employers, employees, and employee  
15 organizations and take such actions with respect  
16 thereto as it deems necessary and proper;



1           (5) Hold such hearings and make such inquiries, as it  
2           deems necessary, to carry out properly its functions  
3           and powers, and for the purpose of such hearings and  
4           inquiries, administer oaths and affirmations, examine  
5           witnesses and documents, take testimony and receive  
6           evidence, compel attendance of witnesses and the  
7           production of documents by the issuance of subpoenas,  
8           and delegate such powers to any member of the board or  
9           any person appointed by the board for the performance  
10          of its functions;

11          (6) Determine qualifications and establish, after  
12          reviewing nominations submitted by the public  
13          employers and employee organizations, lists of  
14          qualified persons, broadly representative of the  
15          public, to be available to serve as mediators,  
16          grievance arbitrators, or interest arbitrators[+], or  
17          a combination thereof;

18          (7) Review and determine qualifications and criteria of  
19          the list of five qualified arbitrators provided  
20          pursuant to section 89-11(e)(2)(A);



1       ~~[(7)]~~ (8)   Establish a fair and reasonable range of daily or  
2                   hourly rates at which mediators and arbitrators on the  
3                   lists established under paragraph (6) are to be  
4                   compensated;

5       ~~[(8)]~~ (9)   Conduct studies on problems pertaining to public  
6                   employee-management relations, and make  
7                   recommendations with respect thereto to the  
8                   legislative bodies; request information and data from  
9                   state and county departments and agencies and employee  
10                  organizations necessary to carry out its functions and  
11                  responsibilities; make available to all concerned  
12                  parties, including mediators and arbitrators,  
13                  statistical data relating to wages, benefits, and  
14                  employment practices in public and private employment  
15                  to assist them in resolving issues in negotiations;

16       ~~[(9)]~~ (10)   Adopt rules relative to the exercise of its  
17                   powers and authority and to govern the proceedings  
18                   before it in accordance with chapter 91; and

19       ~~[(10)]~~ (11)   Execute all of its responsibilities in a timely  
20                   manner so as to facilitate and expedite the resolution  
21                   of issues before it."



1       SECTION 2. Section 89-11, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

3       "(e) If an impasse exists between a public employer and  
4 the exclusive representative of bargaining unit (2), supervisory  
5 employees in blue collar positions; bargaining unit (3),  
6 nonsupervisory employees in white collar positions; bargaining  
7 unit (4), supervisory employees in white collar positions;  
8 bargaining unit (6), educational officers and other personnel of  
9 the department of education under the same salary schedule;  
10 bargaining unit (8), personnel of the University of Hawaii and  
11 the community college system, other than faculty; bargaining  
12 unit (9), registered professional nurses; bargaining unit (10),  
13 institutional, health, and correctional workers; bargaining unit  
14 (11), firefighters; bargaining unit (12), police officers;  
15 bargaining unit (13), professional and scientific employees; or  
16 bargaining unit (14), state law enforcement officers and state  
17 and county ocean safety and water safety officers, the board  
18 shall assist in the resolution of the impasse as follows:

19       (1) Mediation. During the first twenty days after the  
20       date of impasse, the board shall immediately appoint a  
21       mediator, representative of the public from a list of



1 qualified persons maintained by the board, to assist  
2 the parties in a voluntary resolution of the impasse.

3 (2) Arbitration. If the impasse continues twenty days  
4 after the date of impasse, the board shall immediately  
5 notify the employer and the exclusive representative  
6 that the impasse shall be submitted to a three-member  
7 arbitration panel who shall follow the arbitration  
8 procedure provided herein.

9 (A) Arbitration panel. Two members of the  
10 arbitration panel shall be selected by the  
11 parties; one shall be selected by the employer  
12 and one shall be selected by the exclusive  
13 representative. The neutral third member of the  
14 arbitration panel, who shall chair the  
15 arbitration panel, shall be selected by mutual  
16 agreement of the parties. In the event that the  
17 parties fail to select the neutral third member  
18 of the arbitration panel within thirty days from  
19 the date of impasse, the board shall request the  
20 American Arbitration Association, or its  
21 successor in function, to furnish a list of five



1           qualified and experienced interest arbitrators  
2           from which the neutral arbitrator shall be  
3           selected. Within five days after receipt of the  
4           list, the parties shall alternately strike names  
5           from the list until a single name is left, who  
6           shall be immediately appointed by the board as  
7           the neutral arbitrator and chairperson of the  
8           arbitration panel.

9           (B) Final positions. Upon the selection and  
10          appointment of the arbitration panel, each party  
11          shall submit to the panel, in writing, with copy  
12          to the other party, a final position that shall  
13          include all provisions in any existing collective  
14          bargaining agreement not being modified, all  
15          provisions already agreed to in negotiations, and  
16          all further provisions [~~which~~] that each party is  
17          proposing for inclusion in the final agreement;  
18          provided that such further provisions shall be  
19          limited to those specific proposals that were  
20          submitted in writing to the other party and were  
21          the subject of collective bargaining between the



1 parties up to the time of the impasse, including  
2 those specific proposals that the parties have  
3 decided to include through a written mutual  
4 agreement. The arbitration panel shall decide  
5 whether final positions are compliant with this  
6 provision and which proposals may be considered  
7 for inclusion in the final agreement.

8 (C) Arbitration hearing. Within one hundred twenty  
9 days of its appointment, the arbitration panel  
10 shall commence a hearing at which time the  
11 parties may submit, either in writing or through  
12 oral testimony, all information or data  
13 supporting their respective final positions. The  
14 arbitrator, or the chairperson of the arbitration  
15 panel together with the other two members, are  
16 encouraged to assist the parties in a voluntary  
17 resolution of the impasse through mediation, to  
18 the extent practicable throughout the entire  
19 arbitration period until the date the panel is  
20 required to issue its arbitration decision.



1           (D) Arbitration decision. Within thirty days after  
2           the conclusion of the hearing, a majority of the  
3           arbitration panel shall reach a decision pursuant  
4           to subsection (f) on all provisions that each  
5           party proposed in its respective final position  
6           for inclusion in the final agreement and transmit  
7           a preliminary draft of its decision to the  
8           parties. The parties shall review the  
9           preliminary draft for completeness, technical  
10          correctness, and clarity and may mutually submit  
11          to the panel any desired changes or adjustments  
12          that shall be incorporated in the final draft of  
13          its decision. Within fifteen days after the  
14          transmittal of the preliminary draft, a majority  
15          of the arbitration panel shall issue the  
16          arbitration decision."

17          SECTION 3. Statutory material to be repealed is bracketed  
18          and stricken. New statutory material is underscored.

19          SECTION 4. This Act shall take effect upon its approval.

20  
INTRODUCED BY: 





# S.B. NO. 1498

**Report Title:**

Hawaii Labor Relations Board; Arbitrators; Arbitration;  
Collective Bargaining; Impasse

**Description:**

Requires the Hawaii Labor Relations Board to determine qualifications for grievance arbitrators and interest arbitrators. Requires the Hawaii Labor Relations Board to review and determine the qualifications and criteria for potential arbitrators selected under certain circumstances to resolve collective bargaining impasses.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

